matic procedure are alike mystified by the course of the administration in the Hawaiian matter. From the beginning the management has been strangely recondite, secretive to an extreme degree. Those who possessed any information worth having either maintained unbroken silence or whispered enigmatically of possibilities that were and are highly improbable. The appointment of Mr. Blount as special commissioner was a surprise, and although it was made some time ago it still surprises, for there are but few who can figure out the necessity for sending a "special commissioner" all the way to Hawaii, not merely to investigate, but of paramount authority, when there was and is in that country an American represents, by transferring the powers which he legally possesses to the keeping of one case of an ambassador, and it he can do it once tactics of the consciously guilty. why need the Se ate's time be wasted in the consideration of nominations? If the Presicontinues for four years? Such a prerogative smacks somewhat of royalty, and of this humorously monarchical tendency there is evidence in the letter by which the provisional government was informed of the President's selection of a representative. Speaking of Mr. Blount the President says, after the true imperial plural style: "He is well inand maintain to the fullest extent the friendship which has so long subsisted between the two countries." That, however, is a mere trifle. a lingual lapsus to be expected of the conqueror of his own and of all other political parties; the words to be considered are those following immediately after those quoted, "and in all matters affecting relations with the government of the Hawaiian Islands his authority is paramount." The publication of that letter nation of Minister Stevens, at least that is how some people who are not supersensitive seem to

good friend," President Dole, broadly em- choice buds then the crime would be less powers Mr. Blount to haul down the flag and order the marines affoat, to withdraw the the existing government and to transfer them fiably proud of its parks, for their to a monarchy, to do, in short, whatever Mr. Blount pleases; and then having perhaps the exercise of these destructive powers in view Mr. Cleveland says-and it sounds a good deal like a judge pronouncing sentence of death-"May God have your excellency in His wise keeping."

advances made by the Bureau, and the in- when the prospective road is completed. creased usefulness it has attained since its transfer from military control to one There are some suggestions in the reply made by Chief Harrington to the charges against him ble not to this case only but to many cases malcontents in office. He complains of an effort "to magnify a condition of things liable to occur in all departments into an extraordinary condition of crime and mismanagement." There is always danger upon the change of administration, lest efficient officers of the gov- would soon desist. ernment suffer because of practices long countenanced and for which these officers are not directly responsible. Prof. Harrington has also, seemingly, some ground of complaint as to the manner in which the inquiry which concerns his official reputation so closely has been conducted. For some reason the officials in charge of the investigation determined first to make inquiry into matters of minor importance, such as are part, already been brought before the police ashamed, court, leaving the more serious accusations as to maladministration by the head of the bureau, fullest and fairest inquiry. In case the charges | too much of a civil-service reformer. made against Prof. Harrington are sustained the course to be taken by the Secretary of Agriculture is plain. Meanwhile no harm will be acter to win very general commendation.

\*\*\* The non-financiering section of our population that wonders where the free gold has gone may find an answer to the conundrum in the fact that English noblemen have recently captured fifty millions of American dollars and, incidentally, a few nice American girls,

With the New York legislature turned loose victors who will use Gotham as a grand stand from which to view the naval parade will need to be more than ordinarily cautious.

With touching regard for our naval traditions the Dolphin ran aground as soon as it had important work to do.

Dwellers in the national capital are seriously concerned as to the conditions which prevail in places so vicious and so near its borders as is that den of iniquity, that training school of erime-Jackson City. The legislature of the state of Virginia very properly and in the face of adverse influences operated in many in-stances by men who lay claim to respectability exacted a law for the punishment of gambling and betting on races. The especial object of the bill was the breaking up of pool rooms in which men and boys congregated to bet on races that were run outside of the state. On Thursday the Virginia court of appeals decided that so far as these pool rooms were concerned the statute was inoperative. The con-tention of counsel for the pool sellers was that a Virginia court had no jurisdiction over a bes made by telegraph when the person the bet was wired was in another state and three of the judges held that the point taken was sound; two judges dissented. "A bet is a wager between two or mere persons. It involves a concurrence of that is, there must be an offer to bet the offer is accepted, and not before, the betting becomes complete. A bet, like an ordicontract, may be made by telegraph, and when an offer to bet is accepted by tele graph the acceptance, as in the case of a contract, takes effect when the message of accept-

sace is delivered to the telegraph company for

other party. If, therefore, an offer to bet is telegraphed by a person in this city to another in New York and the latter accepts by telegraph, the betting is done not in Richmond, but New York, because the offer, being accepted there, takes effect there." The accuracy of the judicial reasoning will not be questioned,

there was and is in that country an American ments great wrong may result. Lizzie Borden, minister whose business it is to conduct what- charged with the murder of her parents, has ever negotiations may be necessary between been confined in Taunton jail for seven months the two countries. If Minister Stevens was and it seems now as though she would not be believed to be unfit for the responsible tried for two or three months yet. People who position he occupies, he should have are supposed to know something about the conbeen superseded at once; it would have been duct of the case say that the extreme deliberainfinitely better to have done that than to tion shown by the state is due to a fatal weakhumiliate him and, in a sense, the country he ness in the available testimony and that the policy of non-action is being worked with the hope that evidence may develop in the interim. whose title may easily and with propriety be Such dilatory maneuvers disgrace the state that assailed. If the President is empowered to appermits them to be. Speedy trial is the right point a commissioner who shall outrank a of every prisoner. Ordinarily the law's delays minister plenipotentiary and envoy extraordi- in criminal cases are interposed by the accused. nary why may he not do the same thing in the The government cannot afford to imitate the

Slowly, but with force that is not diminished dent can so appoint to meet an exigency whence by deliberation, the home rule bill is moving comes the power that shall prevent him from on to its final stage. Last night it passed the imagining and declaring that the exigency house of commons with a majority of fortythree in its favor. Prior to the vote-which was strong evidence of popular approval of the measure-there was the customary debate, and in this the aged but not enfeebled premier easily hore away the honors and added another leaf to the wreath which he so properly and proudly wears. The bill now goes to committee and there it will probably remain formed of our sincere desire to cultivate for some time. When the measure is reported there will be further debate and new amendments and if the bill is not then thrown out it will be read a third time and passed. Then the house of lords will get hold of it, but what will happen to it while in the keeping of the peers can hardly be predicted.

And now begin the operations of those predatory beings who devote their nights to stealing flowers that were intended to aid in the ought to have resulted in the immediate resig- annual beautifying of the private and public parks. If the thievishness had a benev-olent motive behind; if it was done for the hrightening of sick chambers for the brightening of sick chambers or the gratification of those who rarely see serious, but as the invariable object is gain the dishonesty should meet with speedy and assistance and sympathy of the republic from stern repression. Washington is justilike is not easily to be found. The bright colors and charming fragrance belong to rich and poor alike and they best serve their grateful and elevating purposes in those places where the ownership is common and not individual.

One of the desirable results that must surely follow the construction of an electric road con-Whether or not the investigation which be- necting Baltimore with this city will be a congan today into the administration of the affairs of the Weather Bureau results in proving that the Chief of that Bureau has been guilty of favoritism, or of shielding incompetent employes, or of improper conduct of any kind in the management of his office, it has afforded center of statesmarship art literature and the large and afford to see as much of the truly beautiful as they should may frequently visit the national the management of his office, it has afforded gan today into the administration of the affairs siderable reduction in railway fares. With the Chief an opportunity of pointing out the science. It will be a great day for Ealtimore

Some of our English brethren are too easily of the civilian departments of the government. disturbed. They have been giving loud expression to language loaded with indignation because modern Jacobins have been "standing which are worthy of consideration as applies- the queen on her head" by stamping their letters with the stamps stuck on wrong end up. where charges of similar character are made by Of course it annoys a loyal subject of her majesty Victoria when any one deliberately inverts a postage stamp on a letter so as to place the sovereign's head in an undignified position. but if the foolish and puerile effort to insult was unnoticed the feeble-minded tormentors

It appears that Secretary Carlisle meant by his statement that he would not maintain the gold reserve. Now that the event has made clear his meaning, it seems strange, of course, that any other interpretation could have been placed upon his words. We always really thought that this was what the Secretary meant, and we trust that those papers which, like the New York Sun, prophesied that he usually left to police courts, and which had, in meant something very different, feel properly

Strange, isn't it? While the Civil Service to rest as though it was an unimportant mat- Reform Association of Philadelphia was crititer. The effect of this mode of procedure, cising President Cleveland's administration and whether such was intended or not, was to raise a abusing him for his alleged complaisance to cloud of dust, calculated to obscure public vision. office seekers several thousand democrats in Now that the inquiry into the graver charges this city and elsewhere were using language has been opened the public good requires the unfit for publication because the President was

Voyagers who never traversed the bounding main in anything less substantial than a mondone in an effort to give fair treatment to an ster ocean steamship should take a look at the effect whose public service has been of a charcaravels that are precise replicas of those Columbus commanded. Then they will conclude that Christopher was a bigger and braver man than they had ever imagined he was.

> Alfred Mace, son of the once famous Englis prize fighter, Jem Mace, has just closed a serie of evangelistic meetings in Indianapolis. Whis there in pugilism that breeds volubility?

SHOOTING STARS.

An extremely frank person is often too true to

The clerk had dressed the dummy up, And with a weary smile He said, "This is the only chance I get to put on style."

"How did the city strike you?" asked one of Uncle Ruben's friends on his return. "Struck me fur every cent I had," was the

"Oh, no," said Adolphus Ponsonby Jinks dresmily, "bad weather doesn't affect my poems at all. You see in order to get randy for the spring trade I wrote all my vernal odes lawst December, close up to the steam heater, in a conservatory."

A SQUARE GAME. "What I'm looking for," said a disce looking man with boisterous clothes, "is a

our way, an' ye'll git it." "Where do you live?" "Out ter Squashville, and I reckon we've got some o' ther finest checker players the country | Colorado Sun.

ever raised." He has just struck his thumb with the tack He was silent for almost a minute, and there

when something broke, "what was that?" "I don't know. Probably somebody wanted Since the adjournment of the Senate the

amount of news and gossip has been materially decreased, but the events of the week have been sufficient in number and important enough to keep up the average. The great Columbia but both the judicial perspicuity as well as the naval rendezvous at Hampton Roads has been intelligence of the states' representatives are at the feature of the few days past, and its sucfault if it is imagined for a moment that any cessor, the parade in New York, will occupy of the bets made in a pool room are necessarily much of attention during the week to come. telegraphed to other pool rooms or to the During the ceremonies in New York harbor the tracks where the races are being run. For the late Christopher Columbus will be represented Students of diplomacy and plain American purpose of dodging the law's provisions the by the Duke de Veragus, one of his lineal decitizens who are ordinarily careless as to diplo- operators may make such pretenses scendants, who has been in New York for some matic procedure are alike mystified by the as were perhaps used to deceive the days, has received most hospitable treatment, away a number of workmen who were employed upon an extension of the work; in Kansas there have been prairie fires; in New York, Ohio and Minnesota snew storms, and in several portions of the country cyclonic disturbances of great magnitude. Capitol and labor continue to disagree. There have been strikes in St. Louis and Omaha and a strike of the Ohio mine operators is now imminent. the Ohio mine operators is now imminent; From Homestead come rumors of an under-standing among the men that unless some con-cessions asked for are granted by the manage-ment another strike will be inaugurated on the ment another strike will be inaugurated on the 1st day of July, the anniversary of the day on which Homestead workmen last year took the step which resulted in the horrfole massacre of the 6th of July. Reading railroad changes continue to disturb the stock market more or less, but the probability of further affliction has passed away with the election of J. F. Harris to the presidency of the road. An event of no small upportance to those who believe in nall importance to those who believe in the necessity for a new navy was the trial of the cruiser Detroit. This vessel proved conclusively that it is the fastest of its class in the world. In criminal circles business seems to have been a little dull. Carlyle Harris is still unreprieved and two days ago when he might have escaped as did two other prisoners in Sing Sing who were, like him, con-demned to death, he declined, much to the advantage of his own case, which is now being considered by Gov. Flower. Dr. Thatcher Graves, who was convicted of the murder of Mrs. Barnaby of Providence, R. I., will go free, there being an evident disinclination on the part of witnesses who testified at his first trial

> UNDER OTHER PLAGS. Belgium has undoubtedly occupied the post of honor in the public mind; a concerted and serious effort to secure from the chamber of deputies what is practically universal suffrage succeeding after many riotous demonstrations and considerable bloodshed had taken place. It is believe that had not the chamber of deputies yielded just when it did that the Belgium dropped into the hands of an adjoining country. Serious disturbances are looked for on the 1st of May in several of the continental countries, and unless all the signs fails there will be just about as much continental trouble as the authorities can handle; the workingman demands an eight-hour day, and is determined to get it no matter how the result is to be brought about. In England there conmade overtures to their late employers it is understood that the non-union men will be retained and protected. There have been sympa-thetic strikes in London where the ship owners who said that he thought no man should be compelled to work underground for more than eight hours, but in some other respects he disagreed with the delegation, and is therefore, to a slight extent, unpopular with men of that class. The home-rule bill is moving along slowly but surely towards its destination and at speedy. The new Cunard steamer Campania which is the largest passenger steamer ever built except only the Great Eastern, made a wonderful performance on her trial trip and is expected to do the voyage from Liverpool to portion of Russia in its grip there having been in Pedolia within two weeks. The island of wrecked by earthquake, a large number of people being killed and injured: a volcanic untion is looked for and this may bring about destruction of the island. The matrimonial feature of the European week was the marriage of Prince Ferdinand of Bulgaria and the Prin-cess Marie Louise, eldest daughter of the Duke In Australia the banking troubles

> deal of fun with the government of that excited and excitable region and up to this time seem to be doing just about as they please. AT HOME. The tragic element has predominated to a very large extent in the history of the District for the past week and deaths of the more horrible kind have several times been presented. The most sickening event of the week was the finding of the body of Col. Charles J. Murphy in the apartments he had occupied in the Thompson law building on G street, where it had remained since the 4th day of March. There have been other events during the week closely allied to tragedies. The decision of the Virginia court of appeals has rendered ineffective the anti-pool room act of that state and given a new lease of life to the gambling nells at Jackson City. The collision between a cable and an electric car at 14th and U streets ast Sunday, due it would seem to sheer careessness, brought up the question of the safe-guards which should be placed around city railroad traffic, and the Commissioners as well as the public and press have discussed the question with vigor. The milk cases have also been on trial the past week and a new development in the investigation of the weather bureau was the filing of Gen. Celby's report in the matter. Among the events of the week in a happier vein may be mentioned the emancipation day parade and mass meeting, the visit to the city of the English journalists

culminated in the closing of the Australian joint stock bank which has liabilities to the ex-

tent of £13,000,000; Australian securities have gone down at a tremendous rate. Down in Honduras the revolutionists are having a good

Even Mr. Pulitzer Objects. There can be no doubt that the lowering of the American flag has produced a very unfavorable impression even among those who, like the World, were resolutely opposed to the scheme for taking into the Sisterhood of States, either forcibly or otherwise, this far-away habitation of mongrel Japs, Chinese and Kanakas. No one who has fought for that flag or who would now fight for it likes to see it lowered, even at the behest of a blunt-witted Commissioner intrusted, it would appear, with far too discretionary power .- New York World.

Kind Words From the Learned. The Washington ice men, following the example of the Congressmen who insisted upon closing the world's fair on Sunday, refuse to "Wall," said Farmer Bogosh, "you some out But the statesmen in that city resseuringly reflect that ice purchased on Saturday can be in enough to cool the Sunday morning cocktail.

The Green-eyed Monster is Loose.
"Bemember, ladies and gentlemen," mys the
New York City side-show blower, "that you have nearly two weeks before the perhe murmured patiently, "There is such a thing begins in the large paylion. Step in and see as a man's bein' altogether too painstakin' in our naval raview before passing on the inside." -Caicago Post

Will Little Rhedy Revett.
The franchise in Belgium is appare fair way to become more liberal than i Island.—Providence Journal.

DECREE in actual money, but simply the formation of the company. That was his object. The trouble about most of these transactions is that

Hercules Sanche

AND Lula

Against

A CLEAR AND MOST INTERESTING JUDICIAL OPINION.

ELECTROLIBRATION COMPANY. COMPLAINANT, HERCULES SANCHE & LULE LENMAN.

OPINION BY MR. JUSTICE COX. DELIVERED APRIL 10, 1893.

The principal facts relied on in this case are as fol-On the 14th of June, 1887, Dr. Sanche executed an signment, which I will consider more at large hereafter, in which, after a recitat as to a proposed cor-

oration, he says:
"I hereby transfer all my right, title and interest in and to all my patents, pending and to be applied for, all manuscripts and drawings relating to said new means, and for the further consideration of 12% per centum of the net income from the operations of said company I bind myself, heirs and executors to transfer to John N. Webb. Birmingham. Ala.; Timothy Moroney, New Orleans, La., and Cornelius Doremus. New Orleans, La., as trustees for this pro-

posed company."

The company was then incorporated, at least according to the forms of law. Whe her the spirit of the law was complied with of not, the individuals who contemplated its organization went through the to again appear against him. The doctor will make good his threat of some time ago and in torms of law and secured a certificate of incorpora-tion from the Probate Court of Jefferson county. Alabama. The company having been incorporated in this manner, then, on the 6th day of October, these trustees, Doremus, Moroney and Webb, executed an instrument in which, after certain recitals, they "Do hereby seil, convey, assign and transfer, and by these presents have hereby sold, conveyed, as-signed and transferred, all our right, title and interest in and to all patents pending and to be applied for, all manuscripts and drawings relating to the discoveries of Dr. Hercules Sanche, and conveyed by him to us, as trustees, to the said Electrolibration Company, party of the second part, and its assigns forever." Then the corporation proceeded to act and to manufacture and sell these instruments and devices which embodied the discoveries of Dr. Sanche, They used at first as a trade mark the term "Electrolibrator," but they found that too long, and in December, 1887. Dr. Sanche himself wrote to them and suggested to them to change the name to "ELECTROPOISE." He

says:
"If you approve and advise the change write me at once and also advise Messrs. Munn & Co. that if necessary they change the name in our applications before too late. Believing that you and all concerned will approve I begin to write, using the new appelia-

the badge of the company, indicating the ownership to be in the corporation and bearing the name "Electropoise;" and as late as June 10, 1889, nearly two
years after the organization of the company, he suggested to them that this trade mark be registered. He

consent, had adopted and used this name as a trade mark. Just after that he had a difference with the company and undertook to sever his connection with slowly but surely towards its destination and at the same time the Orangemen of the north of Ireland are preparing to defeat or annul as a trade mark. By an inadvertence, as appears, and in consequence of overlooking the fact that an application was then pending on the part of the corporation, the word was at one time registered ery that this had been done while the application of the corporation was pending, an interference was de-clared. A good deal of testimony was taken and the proceeding resulted in this term "Electropoise" being registered as the trade mark of the company on Octo-

These facts undoubtedly, I think, show a prima facie right in the company to the trade mark, a right which is to be protected un ess the defendant shows some reason to the con rary.

The first ground of deiense presented by the de-

fendant is that the company have violated their contract with him in several particulars. The first alleged violation is that the contract with him contemplated that he was to receive \$250,000 of stock paid up and non-us essable. His assignment does not

He says:
"In consideration of the premises and for the further consideration of 25 per cent of the capital stock of said company," &c. But when the trustees made the assignment of the invention itself to the company, they conveyed,
"In consideration of 10,000 shares of the capital

Sanche's share was one-quarter; so we may assume sanche's share was one-quarter; so we may assume that he was to get one-quarter of the stock, paid up and non-assessible. But his construction of that agreement, as I understand the argument, is that it was incumbent upon these other gentlemen to pay into the company's treasury \$250,000 in order to make its one-routh paid up stock, so that it would make its one-routh paid up stock, so that it would party may have a right, in defense of an action, to rerepresent that value in the treasury. But, as he says. instead of doing that they merely put in the invention itself. That is now the meaning of this agreement, according to my understanding of it. I understand i to mean that the stock is fully paid up and non-assess to mean that the stork is rully paid up and non-assessable; i. e., he as a subscriber is not to be considered bound to pay up anything. His subscription obligation as between him and the company, is to be considered as fulfilled. That is all.

When it is designated to be non-assessable it mean that in addition there are no further assessments to be levied on the stock for the purposes of the company. It seems perfectly preposterous to suppose that these gentlemen were to pay \$250,000 into the treasury in order to give Dr. Sanche that value of the stock for an invention which was entirely untried and hardly perfected at the time. But in addition to that the conscribed for this \$250,000 in stock. It is not sto which the other gentlemen were to subscribe for an pay up in money and then transfer to bim, but it i tock which he originally was a subscriber ubscribed for 2 5 0 shares to be paid for by a convey ance to said company of his undivided one-fourth meterest in all these devices, &c. I think that disposes of

the objection t at his stock was not paid-up stock in thesense of the contract.

Then it is further claimed by Sanche that, sub-stantially, he understood these gentlemen were to pay for the other shares of stock in money. The argu-ment is that he had a right to suppose that they would organize according to the law and under the law they were bound to pay in money or what was equivalent thereto. He, himself, says that the in-contract was not trad and was of no commercial vaiue. the objection t at his stock was not paid up stock in equivalent thereto. He, himself, says that the invention was not tried and was of no commercial vaine, and yet he expected that they would pay \$750,000 in money for their three-quarters of the stock. It is inprobable that they ever agreed to pay up \$250,000 in order to give value to his one-quarter of stock. It is trebly improbable that they ever understood they were to pay \$750,000 in money in order to give value to the rest of the stock and so incidentally to his. In point of fact, that never is the understanding in these organizations, as I conceive. The inventor is crainarily without money or credit and his object is to get people to take hold of his invention who have money, credit and business ability, especially people

get people to take hold of his invention who have money, credit and business ability, especially people who have had experience in promoting and developing inventions. The inventor generally supposes that there is a great deal of money in his invention, if he can get it wat upon the market. If the thing succeeds it is expected to pay for itself. It is generally supposed that parties whom he takes in with him for the purpose will advance some money. One means of getting money is by disposing of the stock. It never is expected that parties acquiring interest in inventions of that sort and putting it in as a part of the capital stock of the corporation should nay in the whole pay value of the stock in money. And, in fact, such was not, as it seems to me, the agreement in this case, as is manifest from the conduct of the defendent himself, for in this very paper in which he subscribes for his one-fought interest in this company the remaining 7,500 shares of the capital stock were divided among the other subscribers in proportion to their subscriptions, and to be fully paid for by deed of conveytance from them of their undivided three-quarters interest. In other words, in the same instrument he subscribes one-fourth of this invention and the other members of this company subscribe their three-fourths, and he is a party to that instrument as much as they are, and so he is a party to the sot by which they subscribe their three-fourths interest in his invention.

That is totally inconsistent with the idea that he thought that the stock was to be paid for in money. Furthermore, that is not the consideration expressed in his agreement. His agreement is not that he would transfer his right in his patents in consideration of the other members of this contemplated company advancing all this capital. He says:

"Whereas it is desirable to form a stock company to patent in this and foreign countries and manufacture and sell the instruments and devices relating to said new means, and to push investigation to its further development, now.

"Therefore, in consideration of the premises," that is, in consideration of the forming of a stock company to patent, manufacture and sell these instruments, &c., not the smborription to and payment of the stock in actual money, but simply the formation of the

The trouble about most of these transactions is that there is no definite understanding between the owner of the invention and those who come in to assist him, as to the extent of the financial aid that he is to receive, and that may be one of the troubles in this case, unless it be true that he was really a party to that Electrolibration Fund, which I will speak of in a moment. But exercities it security is security. moment. But everything, it seems to me, excludes the idea that he expected these gentlemen to put up in money the whole capital stock. He did expect some financial assistance, but unless it is definitely deter-mined by that Electrolibration transaction there is nothing in the case to show the exact amount of finannothing in the case to show the exact amount of finan-cial aid that he was to receive. But now we come to that question of the Electro-libration Fund:

These gentlemen were to get three-quarters of this

stock in consideration of their organization of the company and of their efforts to promote the manufac ture and sale of this invention, and, undoubtedly, of some financial aid. What was the extent of it? A fund of \$10.000 was subscribed to by a number of individuals, as Webb and others say, in order to pay up their money considerations for this three-quarters of the inventions, devices, &c., of Dr. Sanche, and threequarters of this stock was paid for by transfer of this three-quarters of the invention, as shown by the sub-scription list. Now the defendant denies that he was privy to that Webb swears positively that Sanche knew all about it and was a party to it. We find the names of his children, in his handwriting, attached to a list which is preduced in evidence.

We find the list of subscribers has a printed heading

which is pasted on.
"We, the undersigned, hereby subscribe and will pay the amount set opposite our names in cash, as a fund to purchase and pay for the Inventions and "This fund is principally to be applied to obtaining

patents on said Inventions and Devices, and to be paid to the secretary of the Electroithration Company, and expended under the direction of the board directors for such purpose.

'The capital stock of the Electrolibration Company shall be \$1,000,000 divided into 10,000 shares, of par value of \$100 each. The subscribers to the above named fund, as owners of a three-fourths interest in the patents hereafter to be obtained, pro-pose to subscribe that interest to and for 7,500 shares

pany, as fully paid-up stock of said company.

"Dr. Hercules Sanche subscribes his one-fourth interest for 2,500 shares of the fully paid-up stock of the company, so making in all 10,000 shares of fully paid up-stock.

"Each subscriber hereby agrees to leave one-half of the stock to which he subscribes in the treasury of the company as a reserve, to be sold under the direction

of the capital stock of the said E.ectrolibration Com

of the board of directors whenever the necessities the company demand."

If he was a party to that arrangement, that settles the amount which was to be paid in cash, as a consideration for this transfer, to be applied to the expenses of perfecting and developing the invention. It is claimed, however, that this was not the original paper, but that t is heading was pasted on to the subscription list for the stock. The paper on which it was pasted was originally

prepared as a subscription list for the stock. It began "New Orleans, La., "Sept. 14, 1887.
"Messrs. JOHN N. WEBB, TIMOTHY MORONEY,

C. DOREMUS, Trustees.
"We, the undersigned, do subscribe the number of shares opposite our names to be paid for in installments of 25 per cent on organization, and equally in 30, 60 and 90 days thereafter, or, as may be required by the board of directors, for an interest in the can tal stock of a corporation, to be styled Electrolibra-tion Company to be incorporated under the laws of Alabama er Louisiana, but principal place of business to be in New Orleans, La." But that was evidently changed and it was con

verted into a subscription list of money to a fund and this was pasted on in place of that. It is said that he tinues to be deadly friction between the shipping federation at Hull and the sailors and
others whe are ordinarily employed by it; vacancies created by the striking of union men
have been filled by the appointment of nonunion men, and although the unionists have

it is exected."

In eccessary they change the name in our applications
before too late. Believing that you and all concerned
will approve I begin to write, using the new appellation until it is re ected."

Thereafter the instruments were marked with the
name "Electropoise;" Dr. Sanche proceeded to act
for the company and supplied the instruments with
We find that in signing the names of his relatives
We find that in signing the names of his relatives
it was not a privy to that. If he was not, no one else
was. The objection applies to every one of these
names, but it seems to me that the was a party to that. Webb most positively
swears that he was a party to that. If he was not, no one else
was. The objection applies to every one of these
names, but it seems to me that the was a party to that. If he was not a privy to that. If he was not aprivy to that the was. The objection applies to every one of these
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names, but it seems to me that he was not aprive to applie was not aprive to applie was not aprive it was originally prepared as a subscription list for shares, but that was struck out and then it is used as

he subscribed, and there were no shares opposite "If it cannot be done in our corporate name, have those in my name and send me the assignments to it done in my name and send me the assignments to it looks to me on the whole, as though he really were It appears, therefore, that the company, with his a party to that. If he was not, then there never was an amount agreed on to be paid by the others. That is the only evidence as to the ame was to be paid. If he was not a party to that, then them. On the 16th of November, 1889, the company filed an application to have the trade mark "Electropoise" registered. Br. Sanche had made an application to register the same as a label, on the same day the company made its application to register the all the consideration he expected was a vague and inmoney. I think the think contemplated was that these gentlemen were to manage his invention and assist him, undoubtedly, to some extent, financially. either by cash or by raising money on their own perdence of any definite amount being understood, as the leading consideration of this transfer, was what relates to that Electrolibration Fund. Now, so much for the alleged breach for not paying

up the whole stock.

Then there is a general allegation in the answer that they did not comply with their engagements and did not advance money sufficiently. &c. It appears that they had a difference about establishing a plant in Detroit which was to cost \$8,000; and there they split. And there is where the trouble always comes between the inventor and the people who put in the money. He is for going on experimenting indefi-nitely, but the others do not like to put in capital unless they see something coming out of it. But supposing that his companint is true, had he the right to take the course he did? It is an elementary princi-ple of law that where a party has received some benefit under a contract he has no right to rescind the whole contract. He cannot place the party in the same position in which he was before. It cannot be denied that sauche got a good deal out of the transaction. These gentlemen associated with him gave him their time; they got his invention into use; they paid him a saiary for two years, and assisted him in various ways, so that he certainly delived some advan-tage from the contract, and if they did not do every-thing he had no right to take the law in his own hands and rescind the contract and reclaim the property which he had assigned to them. If he is to be concase of an executory contract, if it is not fulfilled, the party may have a right, in defense of an action, to recoup and may recover damages himself, but cannot set aside the whole contract. And still less where the as a said the whole contract. And still less where the contract is executed by a transfer of title. And yet that is what he has undertaken to do here.

Now, so much for the breaches of contract, which have been relief upon as a defense for the relief

sought in this case.

The next thing relied upon is the alleged irregularity and illegality in the formation of the corpora-It is alleged that this is a fraud upon the law of Alabama, which requires that the stock shall be pai up in money or money's value. There is some inconsistency in Sanche's claim. While he alleges that hese gattlemen were to pay up one million dollars for this untried invention he yet objects to their pay-ent for their stock in an invention which was merely n experiment and of no commercial value. I think the whole answer to this objection is found in the fact hat the defendant assisted in the organization of the orporation and dealt with it as a legal body, and he nnot now avoid his con; racts with it

legativ. Certain cases have been cited for the point that the legality of the corporation might be relied upon in lefense. One case, for instance, was where a sub-criber was sued by the co-poration for his subscription. Of course, his contract went into the very question of the organization. Every man who sub-scribes to the stock of a corporation subscribes in scribes to the stock of a corporation subscribes in consideration of genuine subscriptions of others to the amount required by law. If they did not exist the corporation has no right to call upon him, and it was held a very proper defense for him, upon demand of his subscription, that the other subscriptions were fictitious. I do not think that, even in that case, the absolute nullity of the corporation was declared, but the subscriber was simply exempted from the payment or his subscription.

Other cases cited were between the subscriber and creditors of the corporation. There it was held that

Other cases cited were between the subscriber and creditors of the corporation. There it was held that he had no right to say that he had paid up his subscription when he had not given money value as required by law. In those cases the existence of the corporation was not brought into question. The obligation of the subscriber was established and he was held to pay, and it was assumed that the corporation was in existence. This case is quite different. In the first place Sanche makes an assignment to the trustees of property to be conveyed thereafter to a corporation to be created. It is created under the forms of law, and then he deals with it as a corporation. All through his transactions he treats it as a corporation in full vigor. For instance, about the trade mark, he says:

corporation in full vigor. For instance, about the trade mark, he says:

"Have the trade mark registered and every new design and print copyrighted as it is produced. If it cannot be done in our corporate name have it done in my name, and send me the swigmments to sign."

I think the case of Upton, 85 U. S., 687, covers this regist, where the Suprame Court of the United States. A time the case of upton. So U. S., GE7, covere this point, where the Supreme Court of the United States say that where a man deals with a corporation, as was the case here, and assists in its organization, be cannot raise the question of its legal existence. Now that being the case, it is manacessary for me to so any further into the question of the legality of the corporation. The que searyquie proceedings in Alabama never resulted in judgment, and therefore I cannot take notice of them in this case. And if I could, then there is the question whether the defect in its orunnismition was not cured by the subsequent sot of the lagin-lature. I held that it does not lie in the mouth of the

defense to object to the legality of the corporation after the dealings he has had with it.

The only thing remaining to be considered is the effect of the proceedings in the patent office. As we have seen, an interference was declared between the company and Dr. Sanche in reference to his trade mark and it resulted in a decision that the company was suited to the trade company and Dr. Sanche in reference to his trade mark and it resulted in a decision that the company was entitled to the trade mark, which was thereupon registered in their name. That, of course, relates only to foreign commerce and Indian tribes. I do not know how far it is important, but the statutory rights relate exclusively to that field of operation. A number of authorities have been cited by the complainant to the effect that a decision in the patent office as to priority in reference to a patent or trade mark furnishes satisfactory ground for preliminary injunction. In answer to that it is claumed by the defendant that all these proceedings in the patent office were coram non judice. As I understand Mr. Davis' argument, as the trade mark had already been registered ment, as the trade mark had already been registered in the name of Dr. Sanche be holds that after regis tration it was not competent for the commissioner to act further and to grant the ragistration to the Com-pany. The language of the statute is:

"That no trade mark shall be registered which is

identical with a known or registered trade mark owned by another and appropriated to the same class of merchandise." The very question here is whether this was owned by Dr. Sanche. I think that answers this objection.

"In any dispute between the applicant and a pre-

vious registrant or between applicants, he shall follow, as far as the same may be applicable, the practice of courts of equity of the United States in analarous cases."

I do not exactly see what that means, because the commissioner has no right to give a decree as the couris of equity could, but I do not know that he can couris of equity could. courts of equity could, but I do not know that he can better carry out the spirit of this law than in applying the practice in interference in vatent cases to cases of the practice in interference in vatent cases to cases of \$2.50 Children's Reefers, red and tan. Our price. patent cases, and he has reached a conclusion. It is contended by Mr. Davis that under section 7 the registration of the trade mark was prima facie evidence of the fact that the title was in Sanche. But if through inadvertence there is no reason why the office.

Such as the unit was in Sanche. But if price.

Such as the registration in his name was through inadvertence there is no reason why the office.

\$1.25 Misses' Patent Tip Shoes, spring heels. Our sommis. Rheumatism In. through inadvertence there is no reason why the office should not correct it. I do not see why it was not competent for that action to be revised and corrected, and I think the decision of the commissioner and the examiner of interferences, after a full hearing and after taking testimony on both sides, ought to be given the same effect as in patent cases, and this furnishes a very good ground why a preliminary injunction should be granted.

I have looked over these parious forms of trade marks which have been in use and it seems for the state of through inadvertence there is no reason why the office

which have been in use and it seems to me that those which the defendant has been using are substantially the same as that of complainant and that the difer-ence is merely colorable. The substance of the whole is the word "ELECTROPOISE." That is the essence of them all and it seems to me that under the common law and the statute the defendent should be restrained. AND, THEREFORE, I WILL GIVE A DECREE IN FAVOR OF THE COMPLAINANT.

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